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(1) 83-2039

No.

In the

SUPREME COURT OF THE UNITED STATES

October Term, 1983

In the Matter of the Complaint against THOMAS J. KAVANAGH, ESQ. bearing Docket No 079/83 filed with the Disciplinary Committee by

MARVIN N. LEICHER, ESQ.

THOMAS J. KAVANAGH,

Petitioner,

-vs.-

SARAH D. McSHEA,

Of Counsel for the Disciplinary Committee,

Respondent.

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF NEW YORK, APPELLATE DIVISION, FIRST DEPARTMENT.

THOMAS J. KAVANAGH
Counsel for the Petitioner
521 Fifth Avenue (17th Fl)
New York, N.Y. 10017
212-MU 7-0890

73 pp

Questions Presented

1. May a State Court, to wit the Appellate Division, First Department of the Supreme Court of New York State, consistent with the due process requirement of the 14th Amendment permit its clerical employees, who aid in decisions, and one of its Referees, appointed to impartially review an acctg. to protect the estate of a Conservatee from financial loss, to covertly engage in contested litigation against the Conservatee, and covertly aid the nursing home plaintiff, which sued Conservatee for $19,000.00 for alleged nursing home services, in filing a complaint to said Appellate Division to remove Conservatee's attorney for not paying said $19,000 claim which said attorney ultimately defeated in open court and settled for $5,000 at a saving to said Conservatee of $14,000.

2. Can a State Court, to wit the Appellate Division, First Department of the Supreme Court of the State of New York, consistent with the due process requirement of the 14th Amendment, deny an attorney's motion to transfer a grievance complaint filed against him to the neutral Third Department and retain jurisdiction of said complaint, promoted by said First Department's own officials, all familiarly known to said Appellate Bench, and who will appear as witnesses seeking punishment of said attorney for refusal to pay a nursing home's $19,000.00 claim against his client and Conservatee, for alleged nursing home services, which claim said Appellate Division officials had been covertly helping said plaintiff nursing home to collect; and which Conservatee's attorney defeated in open court and settled for $5,000 at a saving to said Conservatee of $14,000.

3. Can a State, with a judicial system which permits prestigious officials of an Appellate Court, who aid in decisions, and one of its Referees, whose function is to protect a Conservatee from financial loss, to, not only covertly engage hostilely in contested litigation to impose a $19,000.00 loss on said Conservatee, but also to abuse the Disciplinary Process of said Appellate Court by promoting complaints seeking to punish said Conservatee's attorney, by removal, for refusing to pay a $19,000.00 claim for alleged nursing home services, which claim said attorney ultimately defeated, in open court, and compelled a settlement thereof for $5,000, saving said Conservatee $14,000.00--can said State who permits such conduct on the part of Judicial Officers, without rebuke, claim to have a truly Republican form of government as required by Article IV Section IV of the United States Constitution.

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OCTOBER TERM, 1983

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n the Matter of the Complaint against THOMAS J. KAVANAGH, ESQ. bearing Docket No 079/83 filed with the Disciplinary Committee by

MARVIN N. LEICHER, ESQ.

THOMAS J. KAVANAGH,

Petitioner,

-vs.-

SARAH D. McSHEA,

Of Counsel for the Disciplinary Committee,

Respondent.

PETITION FOR WRIT OF CERTIORARI

The petition of THOMAS J. KAVANAGH, ESQ., the Petitioner-Appellant represents:

The instant application to appeal is being taken by THOMAS J. KAVANAGH

who is the attorney against whom the complaint has been lodged.

THE FACTS

The gut facts of this application to appeal are that prestigious officials of the Appellate Division, First Department, while illicitly engaged in contested litigation, covertly abused the Disciplinary Process in attempting to collect a $19,000.00 claim for Ft. Tryon Nursing Home from Conservatee, CARL ROHRBACH by conspiring to oust ROHRBACH'S attorney the Appellant herein on the untenable charge that he should have paid said $19,000.00 without resistance.

Appellant defeated the claim by turning back three motions for Summary Judgment; and when this application was made the claim was suddenly settled for $5,000.00. Appellant asks only that the bizarre complaint against him be heard by the neutral Third Department's Panel

where the prestigious officials of the Appellate Division, First Department, who have arrayed themselves as adversaries of CARL ROHRBACH and his attorney, are not familiarly known by their first names.

Above all, Appellant seeks due process for his friend, client and Conservatee and asks that this Court will not permit innocent ROHRBACH to be dragged back against his will, like Dredd Scott, to Ft. Tryon Nursing Home by a successor Conservator agreeable to the demands of the said Appellate Division Officials who feel they can recoup Ft. Tryon's loss by putting him back there at $100 a day although he only pays half that much in the facility where he presently lives.

The factual details are set forth below. Appellant seeks only due process for himself and client. Appellant

is appearing pro se directly on his own behalf, and indirectly on behalf of his friend, client and Conservatee, Carl Rohrbach, a disabled man of 79 years of age.

ROBERT P. McGREEVY, Principal Law Assistant to the Justices of the Appellate Division, First Department and his crony-accomplice JOHN J. LAMANDOLA, former Law Secretary to Justice Leonard Sandler of said Appellate Division Bench, and REFEREE RICHARD E. COVEN, (whose aid was solicited by LAMANDOLA) have, in violation of Title 22 NY CRR 25.44 (EX A), and of the Judiciary Law requiring Referees not only to be neutral but to appear neutral, arrayed themselves, out of malice for Appellant and in expectation of personal gain, as adversaries of the said 79 year old, disabled Conservatee, CARL ROHRBACK with a view to reincarcerating him in Ft. Tryon Nursing Home after

first assisting said nursing home to slough off $19,000.00 of his life savings without a trial either through Summary Judgment or by covert complaints against Appellant to the Disciplinary Committee of the First Department designed to remove Appellant as Rohrbach's attorney, defender, and Conservator so that said $19,000.00 can be collected without resistance.

The Disciplinary Committee of the Appellate Division, First Department has knowingly entertained said covert complaints fostered by the aforesaid Officials of the Appellate Division, First Department, and has permitted its process to be abused for the partisan purpose of intimidating or actually eliminating Appellant as Rohrbach's defender, attorney and Conservator, as a means of aiding in the collection of said $19,000.00 claim for Ft. Tryon Nursing Home, all of

which constitutes such a monstrous abuse of the public trust that not only does it spell out a clear deprivation of due process to compel Appellant, as the lawyer defending the disabled Conservatee, CARL ROHRBACH, to submit to an in camera investigation by a tribunal which is acting as a collection agency for ROHRBACH'S adversaries, who are familiarly known to said tribunal, but an analysis of the factual computer-printout (EX B) gives rise to the further Constitutional question as to whether or not a judicial system, arbitrarily administered to accomodate the malice and self-interest of various political appointees, qualifies the State of New York to claim a genuine Republican form of Government required by the U.S. Constitution.

The synopsis set forth below will enable this Court to understand why McGREEVY, a highly placed member of the

Judiciary elected to descend from the lofty heights he occupied as advisor to the Justices of the Appellate Division and, with LAMANDOLA, a former Appellate Division Law Secretary, flagrantly disobey the prohibitions of Title 22 NY C RR 25.44 (EX B) by unnecessarily (EX C) intruding as a contesting litigant into the affairs of ANNA RICHTER, an Alleged Incompetent and CARL ROHRBACH, a disabled Conservatee:

(a) CHRISTINA REEDMAN, an unwed mother of three young school age children, after 8 years of litigation during which she and other tenants were represented by Appellant, lost her rent controlled apartment.

(b) Insane ANNA RICHTER, 79 year old owner of a vacant, neglected tenement at 315 E. 85th Street in Manhattan who knew the REEDMANS for years agreed to rent them an apartment therein if they would repair her boiler.

(c) REEDMAN using $4000.00 out of her $10,000.00 relocation stipend restored heat and hot water and cleaned the building and moved in her furniture. RICHTER irrational and paranoid (to a degree not hitherto appreciated by REEDMAN) locked the REEDMANS out claiming the mechanics had stolen "boiler rods"; and all offers by REEDMAN to restore whatever it was RICHTER said was missing were rejected.

(d) RICHTER selecting as her advocate an unemployed bum, named HUGO KOCH, who sleeps in a cellar and is known in the neighborhood as a kook who sues bus drivers for not collecting fares, filed a complaint against the Appellant with the Disciplinary Committee of the Appellate Division, First Department where McGREEVY and LAMANDOLA are familiarly known as "BOB" and "JOHN".

(e) Said "missing boiler rod" complaint was mirthfully dismissed on 6/6/81,

but what was not laughed at was the solid gold fact that there was a vacant tenement worth around $500,000.00 in a choice area of Manhattan with no one in it but a paranoid old woman who could not manage it.

(f) Within days after KOCH'S nutty complaint was dismissed on June 6, 1981 (EX D) an astounding phenomenon took place in ANNA RICHTER'S life. Descending on East 85th Street, in deus ex machina fashion, none other than the HON. ROBERT P. McGREEVY, Principal Law Assistant to the Justices of the Appellate Division, First Department appeared at the side of ANNA RICHTER, shooting his immaculate cuffs and generously inquiring if she needed "legal advice." (EX E).

(g) To feces caked ANNA RICHTER the compassionate McGREEVY must have appeared as the modern personification of St. Francis of Assisi, the selfless patron

of the wretched: an opinion he encouraged by stoutly insisting he was there in answer to a request from a mutual friend to "help" RICHTER.

(h) While this account of McGREEVY'S advent into ANNA RICHTER'S life might be accorded simulated belief by his friends and well wishers at the Appellate Division including those on the panel of the Disciplinary Committee on whom he counts to lift Petitioner's license, any jury would divine that McGREEVY got wind of RICHTER'S $500,000.00 building through KOCH'S complaint filed at the Appellate Division where ROBERT P. McGREEVY functions as the Principal Law Assistant: and that he recognized in it the chance of a lifetime for vast enrichment and came up to East 85th Street to make the most of it.

(i) When neither ANNA RICHTER'S relatives, nor the City of New York's Human Resources Department responded to Reedman's pleas to

obtain a fiduciary appointed by the Court for ANNA RICHTER (who it appeared would freeze to death when Winter came) REEDMAN, represented by Appellant brought on a petition for a Committee other than themselves.

(j) McGREEVY, understandably angry at the prospect of Court intervention which would end his tenure of four months as RICHTER'S de facto Committee, called in LAMANDOLA to act as attorney of record and together violated Title 22 by initiating a Cross-petition to dismiss Appellant's petition (EX C) so LAMANDOLA could hi-jack the fee which he would undoubtedly split with McGREEVY who got him the job.

(k) Appellant promptly complained of this violation of Title 22 NY C RR 25.44 to the Chief Justice (EX F) but it was permitted without rebuke (EX G).

(l) Bitter at their failure to get REEDMAN'S petition for a fiduciary for

RICHTER dismissed and smarting at the Court supervision of RICHTER'S affairs, which spoiled the "good thing" McGREEVY had going as RICHTER'S real estate manager and financial advisor, the aforesaid Appellate Division officials broadened their retaliatory aggression against Appellant by an attack on his Conservatorship of CARL ROHRBACH.

(m) Their status as Appellate Division officials enabled them to solicit Referee RICHARD E. COVEN to mount a quasi-criminal investigation of Appellant as ROHRBACH'S Conservator embracing a 28 month period prior to Appellant's appointment as such.

(n) Disappointed at failing to discover the commission of any crime and dumbfounded to learn that Appellant had not even taken a fee or commission in his two year stewardship they plowed ahead, seeing in this unexpected windfall an opportunity

to add "thrift" to "malice" and greedily fell upon ROHRBACH'S $82,000.00 which they considered as forfeit through a sort of "attainder" due to his association with Appellant--by lending their professional and influential, though covert and illicit, assistance to the Ft. Tryon Nursing Home in its effort to collect an alleged $19,000.00 claim, plus legal fees, from the savings of the disabled Conservatee, CARL ROHRBACH. They gave assistance in the preparation of a Summary Judgment (EX B) motion; and as an alternative recommended that complaints be filed with the Disciplinary Committee of the Appellate Division, First Department, for which valuable assistance it is only reasonable to infer that McGREEVY, LAMANDOLA and REFEREE COVEN would receive well earned, and generous legal fees.

To complete the foregoing synopsis the relationship between CHRISTINA REEDMAN

and CARL ROHRBACH and Appellant needs to be briefly set forth, for though it has been recognized by four Judges of the Supreme Court as irrelevant to CARL ROHRBACH'S right to a jury trial of Ft. Tryon's suit against him for $19,000.00, it has been seized upon by ROHRBACH'S adversaries as a pretext to substitute the Disciplinary Committee for a Court and jury. The facts required to understand said relationship follow:

(a) CHRISTINA REEDMAN who resided in Yorkville since 1964 and knew ROHRBACH since about 1973 was asked by him in June 1979 to assist him at his home as an aide-housekeeper since he was partially disabled from a stroke suffered in 1968. She took care of him until November 13, 1980 when, without Court order of any kind, he was unconstitutionally incarcerated in Ft. Tryon Nursing Home by Burden Center.

(b) ROHRBACH grew fond of REEDMAN'S children and requested Appellant in late July 1979 to draft a Will for him leaving to each child and their mother 25% each of his entire estate.

(c) The question of ROHRBACH'S intentions was explored before Justice Evans who presided at his Conservatorship hearing. The attorney for Burden Center who initiated the proceeding manifesting an inexplicable hostility toward the children named in the Will wanted to have Appellant, if made Conservator, change said Will and disinherit said children. But Justice Evans to whom ROHRBACH had explained that he included the children because he felt sorry for them, would not permit the question. (EX H).

(d) After said children were made homeless by RICHTER'S locking them out, Appellant gave them a precarious shelter in his 6 room, rent controlled apartment

nearby where they were shortly served with an eviction notice (EX I). Appellant had only 10 days to find them a place to live or reconcile his conscience to watching them depart to the certain horror of a cheap welfare hotel. Appellant averted that disaster by obtaining a marriage certificate (EX J) constituting compliance with Sec. 52a of the Rent Regulations which permitted the children to remain as "family members," in a Rent Controlled apartment.

After the instant appeal was filed Ft. Tryon N H settled its $19,000.00 suit against ROHRBACH for $5000.00. But McGREEVY, LAMANDOLA, and COVEN count on retrieving Ft. Tryon's $14,000.00 loss by means of the device of getting ROHRBACH'S defense attorney, the Appellant herein, hauled up before the Disciplinary Committee of the Appellate Division, First Department which has already been secretly informed by their complaints, as the computer printout indelibly reveals (EX B), that it

is expected to "take out" Appellant as ORHRBACH'S Conservator. A reliable replacement, grateful to McGREEVY, LAMANDOLA and COVEN will reincarcerate ROHRBACH involuntarily in Ft. Tryon N.H. And at $100 a day Ft. Tryon will recoup its $14,000 loss by absorbing the rest of ROHRBACH'S funds in about a year.

The Court should know that the complainant of record MARVIN LEICHER is but a "front" for McGREEVY, LAMANDOLA and COVEN. Leicher was retained to further the predatory aspirations of Eugene Gross, a local tailor, who was contending with McGREEVY for physical possession of demented Anna Richter's person and $500,000.00 vacant building. And although Gross and McGREEVY pursued Mrs. Richter's realty like two outfielders after the same fly ball they made common cause to oppose Appellant's petition for a Court appointed fiduciary

which would end their commonly shared dream of arriving at Monte Cristo via RICHTER'S $500,000 building on 85th St.

Leicher's complaint that Appellant was harassing his client Gross was so palpably phony that when confronted by the prospects of a jury trial he agreed to withdraw said complaint.

But McGREEVY, LAMANDOLA, and COVEN would not permit it, for it was necessary for them to have Appellant "flogged through the Fleet" by the Disciplinary Committee, not only as a warning to the Bar of the peril of exposing ensconsed political appointees like themselves, whose repeated and illicit engagements in contested litigation were "winked at," but for the more thriftful consideration that Appellant's removal as CARL ROHRBACH'S Conservator and attorney by the device of Disciplinary Action would per-

mit a grateful successor, agreeable to the aims of McGREEVY, LAMANDOLA and COVEN, to "sell" ROHRBACH back to their sub rosa client, the Ft. Tryon Nursing Home, as the rate of $100 a day: for which valuable, though covert and illicit service it is fair to infer there would be a commensurate reward.

What is also important to grasp is that the threat to the assets and liberty of CARL ROHRBACH posed by the hostile intrusion of McGREEVY, LAMANDOLA and COVEN into Ft. Tryon's suit for $19,000 against ROHRBACH was intended by the intruders to be, and for a long period remained, secret.

One could say that the exposure of the conspiracy of McGREEVY, LAMANDOLA and COVEN to inflict financial loss on ROHRBACH was fortuitous, but it is more likely that Justitia, the blindfolded Godesss of Justice unable

to bear supinely so gross a betrayal of the public trust as here exists, intervened and with her blindfold shielded from the eyes of Ft. Tryon's attorneys the folly of submitting on their vain, third reargument of a Summary Judgment motion against ROHRBACH, a computer-printout recording "legal work" hostile to ROHRBACH which indelibly implicated McGREEVY'S crony LAMANDOLA and COVEN the Referee they solicited to aid them in meting out the punishment they feel Appellant deserves for spoiling McGREEVY'S "good thing" as Anna Richter's de facto Committee. (EX B)

To compel Appellant to plead against a grievance in the First Department where "BOB" and "JOHN" as complainants can wink familiarly at the panel and poke a jocular elbow in their ribs would make so-called

administration of Disciplinary Justice in the First Department a fit subject for satire and comedy, with only the victims ROHRBACH and his attorney unable to appreciate the rich humor of the situation.

Petitioner Appellant moved the Appellate Division, First Department of the Supreme Court of the State of New York for an order transferring the grievance complaint made to the Disciplinary Committee of the Appellate Division, First Department to the Appellate Division, Third Department where the employees of the Appellate Division, First Department are not familiarly known as "Bob" (McGreevy) and "John" (Lamandola) but said motion was denied by an Order dated 4/8/83 (EX K), and denied again on a renewal motion by an Order dated 10/4/83 (EX L).

Petitioner's motion to appeal to the Court of Appeals of the State of New York was dismissed by an Order dated 7/5/83 (EX M) and denied again on a renewal motion by an Order dated 2/23/84 (EX N), of which Petitioner received Notice of Entry on March 8, 1984 (EX O).

Petitioner now comes to the Supreme Court of the United States pursuant to 28 U.S.C. Sec. 1257(3) seeking a Writ of Certiorari.

Petitioner herein states that in the aforesaid orders of the Appellate Division of 4/8/83 (EX K) and 10/4/83 (EX L), certain errors were committed to the prejudice of petitioner and to the prejudice of his client CARL ROHRBACH, the disabled Conservatee, in the following particulars, to wit:

ASSIGNMENT OF ERROR

The Appellate Division, First Department of the Supreme Court of the

State of New York erred in refusing to transfer the grievance complaint to the Appellate Division, Third Department where all parties would plead as strangers and by so doing it deprived petitioner of the due process of law (which has not been defined) but is "fundamental fairness" Bagley v. Bagley 292 NY Supp. 2nd 796, In re Coates 368 U.S. 34, Missouri v. Gehmer 281 U.S. 313, Saunders v. Shaw 244 U.S. 317) by compelling him to plead against a grievance complaint covertly made by clerical employees of said Appellate Division who are familiarly known to the Bench and staff of said Appellate Court and will testify before it as hostile witnesses; and said Court's said error will have the effect of rendering nugatory the achievement of ROHRBACH'S attorney in settling the $19,000 claim against

innocent litigant CARL ROHRBACH for $5,000.00. And discontinuing with prejudice said law suit for $19,000 for alleged nursing home services.

Moreover, if this deprivation of due process of law is permitted it will work irreparable harm upon CARL ROHRBACH, who also stands to lose his personal liberty without a trial, for he will, on removal of the attorney of his choice, be rendered defenseless and not unlike Dredd Scott reincarcerated against his will at the exorbitant rate of over $100.00 a day in a Ft. Tryon nursing home which he dislikes and which has sued CARL ROHRBACH for $19,000.00; and no appeal entertained after such a fait accompli will restore CARL ROHRBACH'S mulcted funds or ease the mental anguish (EX P) he will be forced to suffer as a result of the intrigue of the Principal Law Assistant to the

Justices of the said Appellate Division, and his crony, former Law Secretary to one of said Justices, acting in combination with an Appellate Division Referee who elected to array themselves against said disabled Conservatee as hostile litigants.

WHEREFORE, your petitioner prays that a Writ of Certiorari may be issued out and under the seal of this Honorable Court directed to the Appellate Division, First Judicial Department of the Supreme Court of the State of New York, requiring and directing that Court, by and upon a date certain, to be designated therein to certify and send to this Court for review and determination, a full true and complete transcript of the record and proceedings in said Court in the matter lately pending there, numbered and entitled "In the Matter of the Complaint against THOMAS J. KAVANAGH, ESQ. bearing docket no. 079/83 filed

with the Disciplinary Committee by MARVIN HL LEICHER, ESQ. - THOMAS J. KAVANAGH, Respondent -against- SARAH D. McSHEA Of Counsel for the Disciplonary Committee," and that said Orders of 4/8/83 and 10/4/83 of the Appellate Division, First Department, of the Supreme Court of the State of New York be reversed by this Honorable Court, and that your petitioner may have such other and further relief in the premises as to this Court shall seem just and proper.

And your petitioner will ever pray.

THOMAS J. KAVANAGH
Pro Se
Counsel for Petitioner

APPENDICES

Appendix A
Title 22 NYCRR 25.44

Historical Note
Sec. renum. 25.42, new added by renum. 25.44, filed Apr. 3, 1972 eff. April 1, 1972.

25.44 Practice of law. (a) A lawyer who is employed full time in any court or agency of the unified court system shall not maintain an office for the private practice of law alone or with others, hold himself out to be in the private practice of law, or engage in the private practice of law except as provided in subdivision (b) of this section.

(b) Subject to the prior approval of the presiding justice of the appellate division of the Judicial Department in which he is employed as to each professional engagement, a

person referred to in subdivision (a) of this section may engage in the private practice of law as to matters not pending before a court or a governmental agency, in uncontested matters in the Surrogate's Court, uncontested accountings in the Supreme Court and other ex parte applications not preliminary or incidental to litigated or contested matters. Such approval shall continue only to the completion of the particular engagement for which permission was obtained.
134 JUD 5-31-77

CHAPTER 1 JUDICIAL CONFERENCE 25.45

(c) A law secretary or law clerk to a justice or judge who is employed on a part-time basis shall not participate directly or indirectly as a lawyer in any contested action or

proceeding in the court in which he serves, or in any other practice of law which is incompatible with or which would reflect adversely upon his position or the performance of his duties.

(d) No partner or associate of a part-time law secretary or law clerk shall practice law before the justice or judge by whom such law secretary or law clerk is employed.

Historical Note

Sec. renum. 25.43, filed April 3, 1972; new filed May 20, 1977 eff. Sept. 1, 1977.

Appendix B
Ft. Tryon N.H. Computer Printout

Schekter, Aber, Rishty, Goldstein
& Schechter, P.C.

Client 17160-00 Fort Tryon Nursing Home

Fort Tryon vs. Carl Rohrbach

NSG 06/03/82	Tel Kavanagh	.30
CNK 08/17/82	Telephone conference TC to Koven Referee	.30
CNK 08/18/82	Telephone Conference TC from Referee	.20
CNK 08/23/82	Intra office conference TC to Disciplinary Committee: Conf W/MJA	.50
CNK 08/24/82	Review document re draft motion for SJ, TC to Referee	2.50
CNK 08/25/82	Review document final draft of affirm, TC to counsel Lamendolla	3.00
CNK 08/25/82	Case preparation - planning organize letter to Disciplinary Committee	1.50
CNK 09/02/82	Letter to counsel draft letter to Disciplinary Committee	.60

CNK 09/30/82	Draft of letter & complaint to Disciplinary Committee	1.50
CNK 11/16/82	Original draft of document prepare letter to Disciplinary Committee	1.00

Participating Attorneys

M. Joshua Aber

Neil S. Goldstein

Carol Nina Kriesberg

Paralegal person

Appendix C
Letter of Former Supreme Court Justice
Harold Baer, Anna Richter's Guardian
ad Litem in Support of Appeal

"M. CARL LEVINE, MORGULAS & FOREMAN
Attorneys at Law
242 Third Avenue
New York, New York 10017
(212) 759-1780

January 13, 1982

Thomas J. Kavanagh, Esq.
521 Fifth Avenue (17th Floor)
New York, New York 10017

Re: Anna Richter

Dear Mr. Kavanagh:

Thanks for sending to me the information related to the above matter, and a copy of your Notice of Appeal.

I have no standing in this matter after entry of the order and payment of my fee as guardian ad litem. While I will not participate in the appeal I do confirm that my first report recommended that the proceeding

be changed from a petition for the appointment of a Committee (M.H.L. Article 78) to the appointment of a Conservator (M.H.L. Article 77). Also, my final report strongly recommended that a Co-Conservator, preferably an attorney knowledgeable in the real estate field be appointed with either Mrs. Russo or Mr. Gross. I do agree that the cross-petition was unnecessary and I know of no provision in the Mental Hygiene Law for payment of fees to the attorney for such cross petitioner.

The Conservatee cannot handle her own affairs but she has sufficient understanding to know what she wants. Her desire is to live in the neighborhood and to have her two dogs living with her. She has sufficient assets so that her wishes can and should be

granted. I am sorry to learn that she continues to live in Queens, and that nothing has been done about the property. She most certainly can afford an apartment in the neighborhood and a housekeeper to live with her.

Let me know what progress, if any, is made on the appeal and with respect to Anna Richter.

Sincerely yours,

_____

Harold Baer"

HB/rg

Appendix D
Letter of 6/6/81 from the
Disciplinary Committee
Dismissing Hugo Koch's Complaint

"Supreme Court, Appellate Division
First Judicial Department
Departmental Disciplinary Committee
36 West 44th Street
New York, N.Y. 10036
(212) 391-8555

June 6, 1981

PERSONAL AND CONFIDENTIAL

Hugo C. Koch
1632 Second Avenue
New York, New York 10028

Re: Matter of Thomas J. Kavanagh, Esq.
Docket No.: 442/81

Dear Mr. Koch:

This is to advise you that following an investigation of your complaint against the above-named attorney, the matter was submitted to the Committee for disposition.

The Committee has determined that

there is no basis for taking action and, therefore, the matter has been closed.

Very truly yours,

Michael A. Gentile"

MAG:SDM:er
cc: Thomas J. Kavanagh, Esq.

Appendix E
Excerpt from Richter
Record Showing Violation
of Title 22 NY C RR 25.44
by App. Div. Officials

The record demonstrates McGreevy's violations. He describes himself without qualification or restriction as "an attorney duly admitted to practice before the Courts of this State..." (R 69) "I agreed to talk with Mrs. Richter to see if she needed any legal advice", (R70). "I arranged to have Thomas Garvey, a licensed engineer, examine the boiler" (R70) "My contacts with Mrs. Richter were intermittent over the course of the summer..." (R70) "I...advised Mrs. Richter the building had to be emptied of all the junk..." (R70) "I went with Mrs. Richter to the ... bank and spoke to an officer." (R72) "I told Mrs. Richter that I ... would go with her to the bank..." (R72) "I advised Dr.

Finkelstein ... my wife and I were willing to take Mrs. Richter home with us ..." (R25) "I referred the Russos to John J. Lamandola, Esq. ... who I have known since he was Law Secretary to Justice Leonard H. Sandler of the Appellate Division" (R76) "best solution ... is the appointment of Mrs. Russo as Conservator of her assets" (R76) "...as Co-Conservator, I would suggest Gross..." (R76) "Based upon my conversation with Mrs. Richter and the other information set forth above, if a Co-Conservator is appointed it should not be Christina Reedman or attorney Thomas J. Kavanagh" (R78)".

Mr. McGreevy acted in advising Mrs. Richter on building management problems; accompanying her to the bank on financial problems; selecting and recommending the persons to be appointed her Co-Conservator; referring this matter to his Appellate Division Crony

Lamandola, are services a lawyer renders his client.

Lamandola's affirmation confirms in detail that McGreevy was practicing law in contested litigation. "On October 16 I (Lamandola) examined the (Appellant's) Petition and had conversation with Robert McGreevy concerning the allegations contained in the petition and the intended course of conduct." (R173).

"On October 18, 1981, I spoke with Robert McGreevy upon what could be done to assure Anna Richter's release..." (R173).

"On October 19, 1981 conversations ensued between myself... and Robert McGreevy." (R174).

"I met with Robert McGreevy to learn ...about the unusual circumstances of this case." (R174).

"On October 21, 1981 I assisted Robert McGreevy in the preparation and

execution of his affirmation in support of the Cross-Petition." (R175).

The foregoing summary of the joint legal activities of Lamandola and McGreevy shows them as a two-lawyer team preparing their cross-petition and case for trial in an adversary proceeding against Appellant and her attorney. The object of this contested litigation being to knock Appellant and her counsel out of the proceeding by alleging as many defamatory accusations as possible -- and then to scoop up the $5,660.00 (R177) fee Lamandola counted on getting -- which it is fair to infer "John" would divvy up with "Bob" (R237) since "Bob" got him the job.

Appendix F
T.J. Kavanagh's Letter
of 10/25/81 to App. Div.
Complaining of Violations
of Title 22 NYCRR 25.44

"THOMAS J. KAVANAGH
Counselor at Law
521 Fifth Avenue 17th Fl.
New York, N.Y. 10017

Hon. Francis T. Murphy, Jr.
Presiding Justice,
Appellate Division,
First Department
25th Street & Madison Avenue
New York, N.Y. 10010

Re: John Lamendola (former Law Secretary to Justice Sandler)
Robert McGreevy (Chief Law Assistant to the Justices of the Appellate Division, First Dept.)

Dear Sir:

I wish to call your attention to what I regard as highly improper conduct on the part of the above-named attorneys.

Mr. McGreevy, while supposedly engaged as an impartial official of the appellate tribunal over which you preside has patronized an old crony of his Mr.

Lamendola by referring to him a client who wishes to supercede my client and myself as Petitioner and attorney in a proceeding for a Committee of an alleged incompetent worth about $500,000.00.

Since there is nothing substantively or procedurally wrong with the proceeding I have instituted Mr. Lamendola is resorting to defaming so he can supplant me and collect the substantial fee this estate can afford to pay.

Mr. McGreevy is actively engaged in supporting this effort to oust me by defaming me and has submitted affidavits in this partisan litigation which if successful will enrich Mr. Lamendola at my expense and Mr. McGreevy as well.

How will Mr. McGreevy be able to function impartially if this matter comes up for judicial review when he has an obvious

stake in it? If you feel this matter is worth your attention I have enclosed the petition and cross-petition of the contending parties.

Very truly yours,

THOMAS J. KAVANAGH"

TJK:ml
encl.

Appendix G
App. Div. Letter to
T.J. Kavanagh Declining
to Enforce Title 22 NYCRR 25.44

"Supreme Court - Appellate Division
First Department
27 Madison Avenue
New York, N.Y. 10010
212-532-1000

Anne. D. Lopatto
Special Administrative Assistant
to the Presiding Justice

November 5, 1981

Thomas J. Kavanagh, Esq.
521 Fifth Avenue - 17th Floor
New York, N.Y. 10017

Dear Mr. Kavanagh:

Presiding Justice Murphy has asked me to acknowledge receipt of your letter of October 25, 1981, and accompanying documents.

Please be advised that, since the matter concerning Mr. Richter is now under consideration by a lower court, it would of course be highly improper for

the Presiding Justice or any Justice of the Appellate Division to interfere in or comment on the matter in any way.

Very truly yours,

Anne D. Lopatto"

ADL:m

Appendix H
Excerpt from Rohrbach
Record Regarding Will

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

----------x

In the Matter of the Application for the Appointment of a Committee of the Person & Property of

CARL ROHRBACH,

Alleged Incompetent

----------x

INDEX NO. 90123/80

Trial Term Part 29
60 Centre Street
New York, N.Y. 10007

March 18, 1981

B e f o r e:

HON. MARTIN EVANS, Justice.

A p p e a r a n c e s:

ALLEN FEDERMAN, Esq.
Attorney for petitioner
108-18 Queens Blvd.
Forest Hills, NY 11375

SHIRLEY STEWART FARMER, Esq.
Attorney for the Guardian
ad litem
One Lincoln Plaza
New York, NY 10023

H. HOWARD FRIEDMAN, Esq.
295 Madison Avenue
New York, N.Y. 10017

THOMAS J. KAVANAGH, Esq.
505 Fifth Avenue
New York, N.Y.

MILLICENT ANGIULLI
Sr. Court Reporter

Q Isn't it a fact that you are the designated executor of his last will and testament?

A That is correct, Mr. Federman.

Q You were present, weren't you, when we were last at a hearing at Fort Tryon Nursing Home where Carl Rohrbach made some verbal utterances during the hearing while you were testifying?

A Yes.

Q If you were appointed committee, would you see fit to visit Carl Rohrbach now after your appointment and discuss with him what is his feelings regarding his last will and testament?

THE COURT: Would you read that question back to me.

(The last question was read by the Reporter) How can you do that with a person who is incompetent? What would be the effect of it?

MR. FEDERMAN: I am aware, Your Honor, that the declaration of incompetency bars a person from making a will, but I am not sure that the declaration of incompetency bars a person from nullifying his last will and testament, and if there is a possibility that he still retains the ability of nullifying a will, and if he wants to nullify a will, his estate would revert to his heirs at law, and my question is if he does have that ability and the proposed committee happens to be the executor of that will, it could

put him in a very difficult position.

THE COURT: I haven't heard any objection to the question, but I am telling you I will not allow that question. It's a meaningless question.

Q If you were appointed committee, would you feel your prime concern is to properly manage the person and property of Carl Rohrbach?

A Yes, Indeed I would, Mr. Federman.

Q Would you do everything possible to make sure he gets the best of medical and nursing care that he needs?

A That is the obligation of the committee and I would certainly do that, both in my capacity as committee and in my capacity as a human being, yes.

MR. FEDERMAN: No further questions.

THE COURT: Any other questions?

Appendix I
Eviction Notice

"Mautner-Glick Corp.
1345 Third Avenue
New York, N.Y. 10021
288-1999 288-1208

April 11, 1981

Mr. Thomas J. Kavanagh
206 East 83rd Street, Apt. 4-W
New York, New York 10028

Re: 206 East 83rd Street, Apt. 4-W
New York, New York 10028

Dear Mr. Kavanagh:

Your attention is invited to the above captioned premises of which you are the sole legal tenant.

PLEASE TAKE NOTICE that you are in violation of substantial provisions of your Statutory Tenancy, under the Rent Control Laws of the City of New York, in that you are permitting or suffering occupancy by sub-tenants, roomers, boarders or other persons not the named

tenant or members of such tenant's immediate family; without the written consent of the Landlord.

PLEASE BE ADVISED that the said Statutory Tenancy will be terminated and eviction proceedings commenced unless all unauthorized occupants are removed from the premises within ten (10) days from the receipt hereof.

Very truly yours,

MAUTNER-GLICK CORP.

By: _____
Carey Gouldner,
Agent"

ceg:
Registered Mail, R.R.R. & Regular Mail
RESTRICTED DELIVERY

cc: Ms. Christina Reedman, As Occupant
206 East 83rd Street, Apt. 4-W
New York, N.Y. 10028

"John Doe" Occupant
"Jane Doe" Occupant
206 East 83rd Street, Apt. 4-W
New York, New York 10028

Appendix J
Marriage Certificate

"The City of New York
Office of City Clerk
Municipal Building, Manhattan

Marriage License No. 06664 1981

No. 78914

Certificate of Marriage

I, Herbert F. Ryan, duly designated by the City Clerk of the City of New York to solemnize marriages, Do Hereby Certify that I did solemnize the rites of matrimony at the Office of the City Clerk, in the Borough of Manhattan, City of New York, State of New York between Thomas J. Kavanagh of N.Y. in the County of N.Y. State of New York

AND

Christina Reedman of N.Y. in the County of N.Y. State of New York in the presence of Martha A. Makarowski and _____ as witnesses.

Witness my hand this date, Apr.
20, 1981 at the Office of the
City Clerk, Borough of Manhattan,
City of New York, State of New York.

_____
Deputy City Clerk of the City
of New York, Borough of Manhattan"

Appendix K
Order 4/8/83 of Appellate
Division Denying Motion
to Transfer Grievance Complaint
to 3rd Department

At a term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York on April 8, 1983.

Present - Hon. Francis T. Murphy, Jr.,
Presiding Justice,
Theodore R. Kupferman,
Joseph P. Sullivan,
Sidney H. Asch,
Bentley Kassal,
Justices.

---x

In the Matter of the Complaint against Thomas J. Kavanagh, Esq. bearing Docket No. 079/83 filed with the Disciplinary Committee by Marvin N. Leicher, Esq.

Thomas J. Kavanagh,

Respondent,

- against -

Sarah D. McShea,
Of Counsel for the
Disciplinary Committee.

---x

M-689 & M-984

Motions Noticed
for Feb 14 '83
Adjourned to
Feb. 28, 1983

The above-named respondent, Thomas J. Kavanagh, having moved for an order of this Court dismissing the complaint filed with the Disciplinary Committee or transferring the disciplinary proceeding to the Third Department,

And Sarah D. McShea, of counsel for the Disciplinary Committee, having cross-moved for an order of this Court dismissing the respondent's motion on the grounds that this Court lacks jurisdiction over the above-entitled matter and the respondent and that the motion fails to state a cause of action,

Now, upon reading and filing the notices of motion and cross-motion, with

proof of due service thereof, and the papers filed in support of said motion and cross-motion, and the papers filed in opposition or in relation thereto; and due deliberation having been had thereon,

It is ordered that said motion and cross-motion be and the same hereby are denied.

ENTER:

JOSEPH J. LUCCHI

Clerk

Appendix L
Order of 10/4/83
of Appellate Division
Denying Renewal Motion
to Transfer

At a term of the Appellate Division of the Supreme Court held in and for the First Judicial Department in the County of New York, on October 4, 1983.

Present - Hon. Francis T. Murphy,
Presiding Justice,
Theodore R. Kupferman,
Joseph P. Sullivan,
Sidney H. Asch,
Bentley Kassal,
Justices.

In the Matter of the Complaint against :
Thomas J. Kavanagh, Esq. bearing Docket
No. 079/83 filed with the Disciplinary :
Committee by Marvin N. Leicher, Esq.

Thomas J. Kavanagh,
Respondent, :

- against - :

Sarah D. McShea, :
Of Counsel for the
Disciplinary Committee. :

M-4317

The above-named respondent having moved for renewal of Motion Nos. M-689 & M-984 seeking dismissal of the complaint filed with the Disciplinary Committee or transferring the disciplinary proceeding to the Third Department, which motions were denied by this Court's order entered on April 8, 1983,

Now, upon reading and filing the notice of motion, with proof of due service thereof, and the papers filed in support of said motion and the papers filed in opposition or in relation thereto; and due deliberation having been had thereon,

It is ordered that the motion for renewal be and the same hereby is denied, with $20 costs.

ENTER:

Joseph J. Lucchi

Clerk

Appendix M
Order of 7/5/83
of Court of Appeals
Dismissing Appeal

STATE OF NEW YORK
COURT OF APPEALS

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the fifth day of July A.D. 1983

PRESENT, Hon. Lawrence H. Cooke, Chief Judge, presiding.

---

1 Mo. No. 702 SSD 87
In the Matter of Thomas J.K. (Anonymous),
Appellant,
vs.

Sarah D.M. (Anonymous),
Respondent.

The appellant having filed notice of appeal in the above title and due consideration having been thereupon had, it is

ORDERED, that the appeal be and

the same hereby is dismissed without costs, by the Court sua sponte, upon the ground that the order appealed from does not finally determine an action or proceeding within the meaning of the Constitution.

Joseph W. Bellacosa
Clerk of the Court

Appendix N
Order of 2/23/84
of Court of Appeals
Denying Renewal Motion to Appeal

STATE OF NEW YORK
COURT OF APPEALS

At a session of the Court, held at Court of Appeals Hall in the City of Albany on the twenty-third day of February A.D. 1984

PRESENT, Hon. Lawrence H. Cooke, Chief Judge, presiding.

---

1 Mo. No. 151
In the Matter of Thomas J.K. (Anonymous),
Appellant,
vs.
Sarah D.M. (Anonymous),
Respondent.

A motion having heretofore been made herein upon the part of the appellant for leave to appeal to the Court of Appeals and/or to vacate this Court's July 5, 1983 order of dismissal of appeal taken as of

right, &c., papers having been submitted on the motion and due deliberation having been thereupon had, it is

ORDERED, that the said motion to vacate dismissal, &c., be and the same hereby is denied; and it is

ORDERED, that the said motion for leave to appeal be and the same hereby is dismissed upon the ground that the order sought to be appealed from does not finally determine the proceeding within the meaning of the Constitution.

Donald M. Sheraw
Clerk of the Court

Appendix O
Notice of Entry
of Order of 2/23/84
of Court of Appeals

COURT OF APPEALS
STATE OF NEW YORK
----------X

In the Matter of the Complaint
against THOMAS J. KAVANAGH, ESQ.,
bearing Docket No. 079/83 filed
with the Disciplinary Committee
by MARVIN N. LEICHER, ESQ.,

THOMAS J. KAVANAGH,
Respondent,

-against-

SARAH D. McSHEA,

Of Counsel
for the Disciplinary
Committee.
----------X

ORDER WITH NOTICE
OF ENTRY

Mo. No. 151

S I R :

PLEASE TAKE NOTICE that the within is a true copy of an Order duly filed and entered in the office of the Clerk of the

Court of Appeals on February 23, 1984.

Dated: New York, New York
March 5, 1984

Yours, etc.,

ROBERT ABRAMS
Attorney General
of the State of
New York
Attorney for
Respondent McShea
Office & P.O.
Address:
Two World Trade
Center
New York, NY 10047
Tel. No.
(212) 488-4832

TO: THOMAS J. KAVANAGH, ESQ.
521 Fifth Avenue
17th Floor
New York, New York 10017

Appendix P
Carl Rohrbach's Plea for
Protection from the Officials
of the Appellate Division

1) I don't want to return to Ft. Tryon nursing home.

2) I don't owe Ft. Tryon any money. I never asked to go there.

3) I don't want Mr. Coven or Mr. Lamandola to bother me. I don't know them.

4) If Mr. Coven and Mr. Lamandola remove Mr. Kavanagh as my Conservator I still want Mr. Kavanagh as my personal lawyer to protect me.

CARL ROHRBACH

10/31/83

WITNESSED BY:

CARL WESTNER

FRANZ PORKMAUDT

MATT KEMMETER, COL. U.S. ARMY RET.